

**REGULAR MEETING OF THE
BRIGHAM CITY COUNCIL
JULY 16, 2009**

PRESENT:	Lou Ann Christensen	Mayor
	Bruce Christensen	Councilmember
	Scott Ericson	Councilmember
	Reese Jensen	Councilmember
	Ruth Jensen	Councilmember
	Bob Marabella	Councilmember
ALSO PRESENT:	Mark Bradley	City Planner
	Jim Buchanan	Emergency Services Director
	Mary Kate Christensen	City Recorder
	Blake Fønnesbeck	Public Works Director
	Nancy Jo Green	Senior Center Director
	Jared Johnson	Community Development Manager
	Paul Larsen	Economic Development Director
	Tyler Pugsley	Public Works Assistant Director
	Jason Roberts	Finance Director
	Paul Tittensor	Chief of Police

Mayor Christensen called the meeting to order. The Reverence Period was given by Jason Roberts. The scouts in the audience led the Pledge of Allegiance. A motion to approve the minutes of June 18 and 25 Council meetings and Executive Sessions was made by Councilmember Reese Jensen, seconded and carried. Mayor Christensen presented the agenda as follows:

PRESENTATIONS

Team and Individual Everyday Hero Awards

PUBLIC COMMENT

CONSENT

Request for Approval of Resolution Requesting State Legislators and the Governor Take Action to Prevent Excessive Payday Lending Interest Rates in the State

Request for Approval of Updated City Policies and Procedures

PUBLIC HEARINGS

Consider a Request for a Proximity Exemption to Serve Liquor, Wine and Heavy Beer at a Distance Less than 600' of a Public Library

SCHEDULED DELEGATION

Peach Days Update

NEW BUSINESS

Request for Approval of Resolution Revising Fees for Hazardous Materials Requests (*removed*)

Request for Approval of Resolution Setting Fees for Fire Services (*removed*)

Request for Variance of Noise Ordinance for the Drilling of Flat Bottom Canyon Well

Box Elder County Mosquito Abatement Update

UNFINISHED BUSINESS

Request for Approval of Ordinance Amending Title 25, Subdivisions, Effect of Approval, With or Without Requirements, of a Final Subdivision Application and Effective Period

Request for Extension of Plat Recordation of North Point Subdivision, Phase 1

Recommendation for City Real Estate Consultant

Request for Approval of Resolution Increasing Electric Rates as Outlined in the 2009-10 Budget

Request for Approval of Resolution Increasing Storm Drain Rates as Outlined in the 2009-10 Budget

Request for Approval of Resolution Increasing Refuse Collection Rates as Outlined in the 2009-10 Budget

Request for Approval of Resolution Increasing Sewer Rates as Outlined in the 2009-10 Budget

MAKING LIFE BETTER - DEPARTMENT REPORTS

OTHER BUSINESS

CLAIMS

Payment Register

Councilmember Christensen made a motion to approve the agenda as amended. The motion was seconded and carried unanimously.

PRESENTATIONS

Team and Individual Everyday Hero Awards

The Individual Everyday Hero Award was presented to Ev McKinstry. He was nominated by the Box Elder Family Support Center (BEFSC) staff and volunteers. Mr. McKinstry has volunteered at the BEFSC since October 2003. He is always doing handy work at the Center, such as fixing sprinklers, repairing plumbing and installing shelves. He has worked tirelessly as the Chairman of the Center's "Flamingo Fundraiser." He donates more than just his time, sometimes it's a case of food, needed nursery items or even monetary contributions. One summer, Mr. McKinstry took on the role as mentor to a young man with developmental challenges. He brought this young man to the Center and taught him yard work and other maintenance skills. This past April Mr. McKinstry was instrumental in raising over \$500 in donations for the Center 5K Fun Run/Walk. He is also considered the "Church Grandpa" in his congregation. He takes meals to friends at the long-term care centers in town and is always ready to take on another project.

The Team Everyday Hero Award was presented to members of the Advisory Council on Aging, including Ed Brightenburg, June Nelson, Ken Wanlass, Joe Siggard, Noreen Randall, Karen Smoot, Radene Morgan, Phil Reyes, D'On Jensen and Margaret Pounder. They were nominated by Nancy Green, Senior Center Director. This group meets monthly to oversee the operations of the Senior Center and offers advice, direction and encouragement while continuously seeking ways to raise funds for the delivery of Meals on Wheels. The 1st Annual Spring Variety Spectacular was an amazing success. Vice-Chair June Nelson recruited the talent, organized practices, put together the program and arranged for the emcee. The rest of the board members worked Saturday mornings at local stores to sell tickets and seek donations. This event raised more than \$3,000 for Meals on Wheels which made the program eligible for matching funds from a national organization. Chair Ed Brightenburg also sits on the Golden Spike Senior Services Board and helped organize the annual murder mystery dinner theater. This Council is also in charge of Aunty's Jam. They bottle, process, label and market jars of jam for funds for Meals on Wheels.

PUBLIC COMMENT

Councilmember Reese Jensen read a letter from Leon Hyde. "I really appreciated the fireworks display last evening at Rees Pioneer Park. To me, more people attended this year than in the previous year. I was on the lawn of the Bishop's Storehouse. It was almost covered with people. It was nice to see families on their blankets and the children playing under the fireworks. Many arrived early with treats and glow sticks. As I went along 600 West from my home to the store house, people were sitting in chairs, on blankets in their yards and along the streets. Neighbors and friends were together. It was a great community activity. There is some expense associated with the fireworks but I think the benefit is greater than the cost. It brought the community members together and visitors from other communities. This is how communities were during our youth and it is nice to see it happen again. It also shows others what happens in our community and how we treat each other. Brigham City has a reputation for being a nice place to live. As we travel and tell people where we live, a great majority know about Brigham City. It makes us proud to live here. Thanks again for the wonderful activity. All the comments I heard were positive and appreciative." Councilmember Reese Jensen added his appreciation to the Fire Department. It is because of them that the fireworks are such a great success each year. Mayor Christensen also expressed appreciation to Kristy Law for the activities during the day as well as Beth Gurrister for the patriotic program in the morning.

CONSENT

Request for Approval of Resolution Requesting State Legislators and the Governor Take Action to Prevent Excessive Payday Lending Interest Rates in the State

Request for Approval of Updated City Policies and Procedures

MOTION: A motion to approve the Consent Agenda was made by Councilmember Marabella, seconded by Councilmember Reese Jensen. Councilmember Christensen commented that payday lending institutions have gotten bad press in the last few years. He noted that one of the reasons they have been so successful in the last few years is because returned check charges at banks have become so excessive it is better for a person to pay \$15-\$10 for \$100 for a week than it is to pay for 4-5 bounced checks that could cost hundreds of dollars. He agreed that it has been abused and still agreed with the resolution. The motion unanimously carried.

PUBLIC HEARING

Consider a Request for a Proximity Exemption to Serve Liquor, Wine and Heavy Beer at a Distance Less than 600' of a Public Library

Mr. Bradley came forward and explained that recent changes made through the legislature allowed opportunities for taverns to apply for a social club license. B&B's status is currently as a tavern and they have made a request to change their status to a social club. Both are permitted uses in Brigham City. As they were going through this process, the State required that their proximity be reviewed. Their proximity has to be greater than 600' from a public library or park. The State measured this distance from the entrance of the facility, along the pedestrian route to the public library, measuring 558'. The City has the ability to consider this exemption through this public hearing. The state would also have to hold a public hearing.

The change from a tavern to a social club would allow them to change their sales from regular beer to hard liquor and stronger beer. This change to a social club imposes more restrictions. There are three specific changes. The operators of the business would need to: 1) scan the driver's license of individuals from 21-35 years of age; 2) limit the amount of liquor to two drinks and not to exceed more than 2.5 ounces, and; 3) have food available at all times.

A motion to open the public hearing was made by Councilmember Ruth Jensen, seconded and carried.

Annette Jones - Ms. Jones is the owner of the B&B. She stated that the State Legislators passed a law that does away with private clubs. She's heard that there are concerns regarding beer vs. alcohol, such as more intoxication, getting drunk faster. She stated that whether a person is drinking a 12 oz beer, a mixed drink with 1.5 ozs. of alcohol or a 5 oz glass of wine, the person is getting the same amount of alcohol and the blood alcohol content will be exactly the same. Intoxication level is not going to increase. In fact, they will now be required to serve food which slows down that process. She added that she has made arrangements with Lou Burstrom, a State approved trainer, to train her and her staff. They will be scanning IDs so minors are not going to get served. The laws are much more stringent for them to be a social club than a tavern. She added that B&B has always offered rides home. She has 4-5 people that are always available to take people home and they strongly encourage people to get a ride. Regarding the 600' rule, if the State measured from entrance to entrance they are over 600'. People cannot see the B&B from the library, nor can they see the library from the B&B. There are many barriers between two buildings and she did not perceive any reason why one should involve the other, especially since the B&B has been a bar since 1924.

Linda Hansen - Ms. Hansen said the B&B also cares about their community. They are monthly contributors to the Pantry. She would love to be able to go in and have a glass of wine instead of beer.

Debbie Nelson - Ms. Nelson said Annette Jones is the best business woman she has ever met. She runs a really tight ship. She has never seen a minor in the B&B. She has been a waitress all her life and the biggest complaint she's heard from travelers is that there is no place to go in and have a drink.

Erica Archibald - Ms. Archibald stated that her and her friends get together weekly and go out of town and have a few drinks. She tries to keep things local, but some of her friends don't like beer, so they have to go out of town. They would like to keep it local.

Rod Hunter - Mr. Hunter said the State just changed the tavern laws for a reason and that is to increase tourism. Downtown Brigham City has always struggled to draw people to downtown. The State of Utah

changed this law to facilitate this because of the perception people from out of state have of the narrow mindedness of liquor laws in Brigham City. This is a step toward helping downtown.

Jacob Walker - Mr. Walker said Annette's establishment is not just a place to go and have a drink. He has seen people from the Community Center go in and play pool and she has always made them welcome.

A motion to close the public hearing was made by Councilmember Marabella, seconded and carried.

MOTION: Councilmember Marabella made a motion to approve an exemption for the proximity distance less than 600' for the B&B Billiard, seconded by Councilmember Ruth Jensen and unanimously carried. Mr. Bradley explained that the motion should include the six items as listed in the Council packet.

AMENDED MOTION: Councilmember Marabella amended his motion to approve an exemption for the proximity distance less than 600' for the B&B Billiard based on the following findings:

1. The Public Library is screened from view from B&B Billiards, in large part, by physical sight barriers;
2. The Public Library is separated from B&B Billiards by a four lane highway (Main Street);
3. B&B Billiards has operated as a tavern for several years under the same regulations as would be required of a social club;
4. B&B Billiards is in close proximity to the State Liquor Store where similar liquors may be purchased;
5. The normal foot traffic patterns of Public Library patrons will not pass by B&B Billiards;
6. The clientele of the B&B Billiards and patrons of the Public Library likely will not interact with each other in the vicinity of the library.

The amended motion was seconded by Councilmember Christensen and unanimously carried.

SCHEDULED DELEGATION

Peach Days Update

Monica Holdaway, Chamber of Commerce Director, and Mark Murdock, Chairman for the Chamber, came forward. Mr. Murdock said a company would like to provide helicopter rides during Peach Days this year. They are currently working with Utah State University Brigham Campus to use their parking lot. The ride would be approximately ten minutes and would cost \$35. They would take off and land at the USU parking lot. The company has insurance on both the landing areas of \$1 million and \$2 million on the helicopter. This would just be available on Saturday.

Mr. Fannesbeck came forward and explained that the Brigham City Airport has a protection zone around it and USU is outside of that area, so it is really not required to have City Council approval; however, he would like the company to work with him so he is sure they avoid the flight pattern.

Mr. Murdock said another issue is that there is a curb in the City Plaza area that has caused a tripping hazard for a lot of Peach Days patrons. Two years ago they painted it red during Peach Days. The curb itself is not attached to anything and he felt it could easily be removed. He requested that the curb be removed. Mr. Fannesbeck suggested a railing because if the curb is removed it would leave a dip. Mr. Fannesbeck will come back with recommendations.

Ms. Holdaway said since the 100th celebration of Peach Days they have opened the booths during the day on Friday. It has been very successful and it has been very busy on Fridays. One of their concerns from this success is the City's customers being able to find a place to park. She asked if it would be possible to close City Hall the Friday of Peach Days. Councilmember Marabella said if this is approved how would the employees at City Hall be paid? Would it be an additional holiday? There are employees that have to work during Peach Days, such as the Street Department employees. Would they get a day to take at another time? City staff will look at this issue and come back with a recommendation.

NEW BUSINESS

Request for Variance of Noise Ordinance for the Drilling of Flat Bottom Canyon Well

Mr. Tyler Pugsley came forward and requested a variance to the City's noise order in order to drill for the Flat Bottom Canyon Well. The City will receive better prices if the well drillers are allowed to complete the work in a short time frame. The area is on the mountain above the homes, so the engineer and well driller feel the noise will rise. If approved, letters will be given to homeowners in the area.

MOTION: Councilmember Ericson made a motion to approve the variance for the Noise Ordinance for the drilling of the Flat Bottom Canyon Well, seconded by Councilmember Reese Jensen and unanimously carried.

Box Elder County Mosquito Abatement Update

Councilmember Marabella explained that Brigham City is in a unique situation in the treatment of mosquitos because the Bird Refuge cannot be treated. There are between 1,000-1,500 acres on the Bird Refuge that are low lying marsh areas. One acre of marshland will produce 8-10 million mosquitos. Mosquito Abatement monitored the area and there were four waves of mosquitos coming from the Bird Refuge. The first three waves did not carry the West Nile Virus, the fourth one has the potential of carrying it. There have been three positive cases of the West Nile Virus found in traps so far this year.

Councilmember Ericson said he met with Sandy Kessler from Senator Hatch's office and they prepared a letter to send through the Federal Government to allow spraying for mosquitos at the Refuge. They met again on July 14 with Bob Barrett from the Refuge and he reported that they have a plan that they can spray based on data they received from the Mosquito Abatement District. Randy helped write that plan in 2004 but he hasn't been sending data to the Refuge, so they haven't been able to spray or trap mosquitos on the Refuge, just around it. As of this week, they are starting to work together. Mosquito Abatement has given the Refuge the data from the last four years so they can start to spray some areas of the Refuge.

UNFINISHED BUSINESS

Request for Approval of Ordinance Amending Title 25, Subdivisions, Effect of Approval, With or Without Requirements, of a Final Subdivision Application and Effective Period

Mr. Bradley reported that the Planning Commission had a public hearing on July 7 on this issue. The Planning Commission recommended approval. However, due to the time constraints on this issue, they requested the Planning Commission be given time to work on the language of this revision because they did not feel the wording is optimal. This revision allows one extension for six months.

MOTION: Councilmember Ericson made a motion to approve the ordinance amending Title 25, Subdivisions, Effect of Approval, With or Without Requirements, of a Final Subdivision Application and Effective Period. The motion was seconded by Councilmember Reese Jensen and unanimously carried.

Request for Extension of Plat Recordation of North Point Subdivision, Phase 1

Mr. Bradley reported that all the requirements for recording of the plat has been completed except for an updated title report and the escrow needs to be put in place.

MOTION: Councilmember Reese Jensen moved to approve the request for an extension of plat recordation of North Point Subdivision, Phase 1, seconded by Councilmember Marabella and unanimously carried.

Recommendation for City Real Estate Consultant

Mr. Larsen stated that they received two applications. The task force met with both applicants and reviewed their information. The Committee's recommendation was to move forward with Jeff Packer of All Pro Real Estate. Upon approval, he will have the City Attorney draft a contract and bring it back for approval.

Councilmember Marabella declared a conflict of interest because he works at All Pro Real Estate. He added that he was not on the task force and did not have any input during this process.

MOTION: Councilmember Christensen made a motion to approve Jeff Packer as the City's Real Estate Consultant, seconded by Councilmember Ruth Jensen. Voting was as follows:

Councilmember Christensen - aye
Councilmember Ericson - aye
Councilmember Reese Jensen - aye
Councilmember Ruth Jensen - aye
Councilmember Marabella - abstained

Motion carried.

Request for Approval of Resolution Increasing Electric Rates as Outlined in the 2009-10 Budget

Mr. Roberts explained that this and the following resolutions are to reflect the 3.32% increase as discussed during the 2009-10 budget process. The only exception is the electric rates which is an increase of 6.97% to include the passthrough from Rocky Mountain Power.

MOTION: A motion to approve the resolution increasing electric rates was made by Councilmember Reese Jensen, seconded by Councilmember Marabella and unanimously carried.

Request for Approval of Resolution Increasing Water Rates as Outlined in the 2009-10 Budget

MOTION: Councilmember Reese Jensen made a motion to approve the resolution increasing water rates, seconded by Councilmember Ruth Jensen and carried unanimously.

Request for Approval of Resolution Increasing Storm Drain Rates as Outlined in the 2009-10 Budget

MOTION: Councilmember Reese Jensen made a motion to approve the storm drain rates, seconded by Councilmember Marabella and carried.

Request for Approval of Resolution Increasing Refuse Collection Rates as Outlined in the 2009-10 Budget

MOTION: Councilmember Reese Jensen made a motion to approve refuse collection rates. The motion was seconded by Councilmember Christensen and unanimously carried.

Request for Approval of Resolution Increasing Sewer Rates as Outlined in the 2009-10 Budget

MOTION: A motion to approve the resolution increasing sewer rates was made by Councilmember Reese Jensen, seconded and carried.

MAKING LIFE BETTER - DEPARTMENT REPORTS

Mantua Trail Project - Mr. Pugsley reported that they are going to start the Mantua Trail Project on July 20. This will be done mostly with grant money. The trail will be five miles around the Reservoir. City crews will provide most of the labor. The only portions that will need to be bid out is the asphalt for the parking lots, installation of restrooms and the pit tanks, and concrete work for the boat docks. They hope to have most of it completed by Peach Days.

CLAIMS

Payment Register

Councilmember Christensen reviewed General Claims dated June 22, 2009 in the amount of \$570,342.72; for June 23 in the amount of \$114,622.75; June 30 for \$1,074,615.90; Miscellaneous Claims dated June 30, 2009 for \$107.31. Councilmember Ruth Jensen also reviewed claims dated July 7, 2009 for \$462,709.50; for

July 14, \$948,7612.88. Councilmember Christensen moved they be approved. The motion was seconded and carried.

A motion to reconvene as an RDA was made by Councilmember Ruth Jensen, seconded and carried unanimously. The meeting adjourned at 9:04 p.m.

The Council reconvened at 9:47. A motion to adjourn to an Executive Session was made by Councilmember Ericson. A roll call vote was taken in which all councilmembers voted aye. The Council returned to an open meeting at 10:43 p.m. and adjourned.